IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1972 OF 2000

Office Notes, Office Memoranda of coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders.

Mr.R.D.Oak with Mr.Rajesh Datar for the petitioner.
Mr.S.R.Nargolkar AGP for respondent nos.1 and 2.
Mrs.P.P.Bhosale for respondent no.3.

CORAM: V.G.PALSHIKAR &
D.B.BHOSALE, JJ.

DATED: 20TH SEPTEMBER, 2005

P.C.:

. By this petition, the petitioner has challenged the order passed by the Minister of State for Food and Civil Supplies setting aside the allotment made by the Deputy Controller of Rationing in favour of the petitioner on the ground that respondent no.3 had better priority (priority no.3) then the petitioner (priority no.8) and the fact that she was not in possession occured due to changes in the dates of advertisement, withdrawal of advertisement by the concerned officer. The Minister has observed that at the time when the impugned order was passed the respondent no.3 did have possession

of the property.

2. The agreement on which reliance is placed by the learned Minister expired in May 2004 and the situation is again undetermined.

3. The affidavit in reply is filed on behalf of the State by the Assistant Controller of Rationing, Mumbai giving factual position at the time when the allotment was made. It has been categorically stated that the Controller of Rationing, Mumbai after making physical enquiry with the concerned officer found that the area of the petitioner-shop is 297 sq.ft. and is convenient for the ration card holders and also for transport of essential commodities. It is then averred that application of respondent no.3 was rejected on the ground that the proposed shop shown by respondent no.3 for running ration shop was already surrendered by her to the original owner. This fact is not in dispute. According to the impugned order

thereafter there was again fresh agreement and the possession of proposed shop came back to respondent no.3. But factually even that period expired in May 2004. In such circumstances no purpose will be served by upholding the permission granted to respondent no.3. The petitioner under the interim order of this court is running shop for four years. Factually, it is stated that it is convenient for the ration card holders and for the transport of essential commodities. We, therefore, allow the petition and set aside the impugned order. No order as to costs.

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